

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CALEB L MCGILLVARY,

Plaintiff,

v.

LAMONT DORSEY,

Defendant.

CASE NO. 3:22-cv-5883

ORDER DENYING MOTION FOR  
RECONSIDERATION

Plaintiff Caleb McGillvary's case against Defendant Lamont Dorsey has been pending for over a year, but he has yet to properly serve Dorsey. *See* Dkt. No. 1. On October 20, 2023, the Court denied McGillvary's motion for alternative service and gave him another 14 days to effect proper service. *See* Dkt. No. 25. McGillvary now moves for reconsideration of the Court's order denying his motion for alternative service. Dkt. No. 26.

"Motions for reconsideration are disfavored." LCR 7(h)(1). District courts will deny such motions unless there's a showing of "manifest error in the prior ruling or . . . new facts or legal authority which could not have been brought to [the Court's]

1 attention earlier with reasonable diligence.” *Id.* Motions for reconsideration should  
2 be granted only in “highly unusual circumstances.” *Marlyn Nutraceuticals, Inc. v.*  
3 *Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (quoting 389 389  
4 *Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)). Reconsideration is  
5 an “extraordinary remedy, to be used sparingly in the interests of finality and  
6 conservation of judicial resources.” *Kona Enters., Inc. v. Est. of Bishop*, 229 F.3d  
7 877, 890 (9th Cir. 2000) (internal quotation omitted). A motion for  
8 reconsideration “may not be used to raise arguments or present evidence for the first  
9 time when they could reasonably have been raised earlier in the litigation.” *Id.*  
10 “Whether or not to grant reconsideration is committed to the sound discretion of the  
11 court.” *Navajo Nation v. Confederated Tribes & Bands of the Yakima Indian Nation*,  
12 331 F.3d 1041, 1046 (9th Cir. 2003).

13 The Court denied McGillvary’s request for alternative service because his  
14 proposed means of service—via email or social media—are not permitted under the  
15 Federal Rules or Washington law under these circumstances. *See generally* Dkt. No.  
16 25.

17 McGillvary asks the Court to reconsider its ruling because in a prior Order,  
18 the Court had suggested that McGillvary may be able to serve Dorsey under Texas  
19 law. *See* Dkt. No. 17 at 2 (“Plaintiff must follow the guidelines for service found in  
20 Rule 4, the state law for service in the state where the district court is located, or  
21 the state where service is made. Fed. R. Civ. P. 4(e). Here, Plaintiff may comply  
22 with either Fed. R. Civ. P. 4 or the state laws of Washington, where the District is  
23 located, or Texas, where service was purportedly made.”).


1 When the Court issued that Order, however, McGillvary was attempting to  
2 serve Dorsey in Texas, which is why the Court considered service requirements  
3 under Texas law. Dkt. No. 17. But since then, McGillvary has filed sworn  
4 statements disclosing that Dorsey is probably not in Texas. According to  
5 McGillvary, Dorsey lives “in a van & travels from town to town,” “making his living  
6 by filming videos of himself” at “gravesites of famous homicides.” See Dkt. No. 21-1  
7 at 1. McGillvary claims the gravesites are located “across America.” Dkt. No. 4 at 4.  
8 Indeed, Dorsey’s YouTube pages, Lamont at Large and Fascinating Graveyard,  
9 feature recent videos filmed in California, Illinois, and Nevada.<sup>1</sup> Without evidence  
10 that service would occur in Texas, the Court cannot permit McGillvary to serve  
11 Dorsey under the Texas service of process rules. *See* Fed. R. Civ. P. 4(e)(1). Thus,  
12 this is not a case of the Court departing from a prior ruling, but rather later factual  
13 developments rendering the prior guidance moot or untenable.

14 McGillvary also argues that the doctrine of res judicata applies in this  
15 situation, but because this is “not a new action, traditional claim preclusion and  
16 issue preclusion do not apply.” *United States v. Walker River Irrigation Dist.*, 890  
17 F.3d 1161, 1172 (9th Cir. 2018). This is the same case, not a subsequent proceeding.

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21 <sup>1</sup> “[T]he court may judicially notice a fact that is not subject to reasonable dispute  
22 because it . . . can be accurately and readily determined from sources whose  
23 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). “It is not  
uncommon for courts to take judicial notice of factual information found on the  
world wide web.” *O’Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th  
Cir. 2007).

McGillvary fails to show why the Court should reverse or modify its previous ruling. Accordingly, his motion for reconsideration is DENIED.

  
Jamal N. Whitehead  
United States District Judge